

LIBELED: 7-25-61, N. Dist. Ill. ✓

CHARGE: 402(b)(1)—while held for sale, the valuable constituents, namely, vitamin D (804 bottles), and thiamine hydrochloride (82 cartons), had been in part omitted or abstracted from the articles; 403(a)—the label statements (804 bottles) "Each Capsule Contains * * * Vitamin D (synthetic) 500 U.S.P. Units," and (82 cartons) "Ingredients in Each Tablet * * * Thiamine Hydrochloride U.S.P. 3 mg.," were false and misleading; 403(a)—the label statements (82 cartons) "Contains 14 vitamins," and "The need for Folic Acid * * * dl-Methionine * * * Copper * * * Potassium, Magnesium * * * and d-Alpha Tocopheryl Acetate in human nutrition has not been established," were false and misleading since they were contrary to fact; and 403(f)—the information required by 403(i)(2) to appear on the label, namely, ingredient statement (82 cartons), was not prominently placed on the label with such conspicuousness (as compared with other words and statements on the label) as to render such information likely to be read by the ordinary individual under customary conditions of purchase and use.

DISPOSITION: 8-25-61. (82 cartons) consent—claimed by W. T. Rawleigh Co., and relabeled; (804 bottles) default—destruction.

27645. Vibraline Food Supplement tablets. (F.D.C. No. 45788. S. No. 62-173 R.)

QUANTITY: 23 boxes, each containing 60 mineral and 60 vitamin tablets, at North Kansas City, Mo.

SHIPPED: Prior to 4-13-61, from Battle Creek, Mich., by Battle Creek Dietetic Co.

LABEL IN PART: (Box) "Vibraline Food Supplement * * * 30 Day Supply * * * Directions: Two Vitamin Tablets * * * Two Mineral Tablets * * * Daily * * * Supply * * * Boron (Sodium Borate) 0.3 mg. * * * Folic Acid 1.0 mg. * * * Battle Creek Dietetic Co., Dist.; Battle Creek, Michigan."

LIBELED: 5-2-61, W. Dist. Mo. ✓

CHARGE: 402(a)(2)(C)—when shipped, the article contained food additives, namely, boron and folic acid, which are unsafe within the meaning of 409, since they and their use, or intended use, were not in conformity with a regulation or exemption in effect pursuant to 409.

DISPOSITION: 9-29-61. Default—destruction.

27646. Yum Berry Milk Supplement. (F.D.C. No. 44229. S. Nos. 64-430 P, 90-989 P.)

QUANTITY: 200 cases, 12 12-oz. jars each, at Boston, Mass.

SHIPPED: 1-26-60, from Glenbrook, Conn., by Taylor-Reed Corp.

LABEL IN PART: (Jar) "Yum Berry Milk Supplement A New Fruit Flavored Syrup For Milk Drinks * * * Fortified with Vitamins B₁—B₂—D—Niacin * * * Made of cane sugar, corn syrup, true fruit flavors [less than 0.1% imitation] * * * The Taylor-Reed Corp., Glenbrook, Conn. Yum-Berry mixed as directed with 1 qt. whole milk provides."

LIBELED: 2-8-60, Dist. Mass. ✓

CHARGE: 403(a)—when shipped, the label statements "Yum Berry Milk Supplement" and "Fruit Flavored Syrup" were false and misleading since the article did not contain milk, and contained imitation flavor; 403(a)—the label statements pertaining to the content of vitamins, minerals, and food ele-

ments contained in the article were misleading since they exaggerated the nutritive properties of the article; 403(f)—the net weight statement, the ingredients statement, and information pertaining to the special dietary properties of the article were not prominently placed on the label with such conspicuousness (as compared with other words, statements, and designs in the label) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use; and 403(j)—the article purported to be and was represented as a food for special dietary use by reason of its vitamin and mineral content, and its label failed to bear, as required by regulations, a statement of the proportion of the minimum daily requirement for such vitamins and minerals supplied by the article when consumed in a specified quantity during the period of one day.

DISPOSITION: The Taylor-Reed Corp. having appeared as claimant, and the claimant and the Government having agreed to the removal of the case for trial to the S. Dist. N.Y., an order was entered on 4-27-60, directing that the case be so removed. On 9-14-61, the claimant having consented, judgment of condemnation was entered and the court ordered that the product be delivered to a charitable institution for its use and not for sale.

27647. Dulse leaves. (F.D.C. No. 46476. S. Nos. 73-310/11 R, 73-318/20 R.)

QUANTITY: 1 79-lb. ctn.; 20 1-lb. boxes; 11 5-lb. boxes; and 10 3-oz. boxes, at Los Angeles, Calif.

SHIPPED: Between 3-28-61 and 7-3-61, from New York, N.Y., by S. B. Penick & Co.

LABEL IN PART: (Ctn.) "Purple Nova Scotia Dulse * * * Seelect Dietary Products * * * S. B. Penick & Company * * * Jersey City, N.J."

RESULTS OF INVESTIGATION: The article was repacked into the boxes by the dealer from the bulk stock shipped as described above.

LIBELED: 10-3-61, S. Dist. Calif. —

CHARGE: 402(a)(3)—contained small sea animals such as snails, crayfish, clams, and mollusks when shipped.

DISPOSITION: 10-27-61. Default—destruction.

27648. Vita Plus capsules. (F.D.C. No. 46352. S. No. 34-608 T.)

QUANTITY: 71 120-capsules btls., and 6 60-capsule btls., at Minneapolis, Minn.

SHIPPED: 12-8-59, from Oak Park, Mich., by Freshman Vitamin Co.

LABEL IN PART: (Btl.) "Cayol Vita Plus Vitamin and Mineral Food Supplement Natural and Organic Food Nutrients * * * Cayol Foods 812 La Salle Ave. Mpls. Minn. * * * Folic Acid 1 mg. per capsule * * * Directions: Two (2) capsules Daily * * * 58996."

LIBELED: 10-5-61, Dist. Minn. —

CHARGE: 402(a)(2)(C)—while held for sale, the article contained a food additive, namely, folic acid, which is unsafe within the meaning of 409, since it and its use or intended use were not in conformity with a regulation or exemption in effect; and 403(a)—when shipped, the labeling of the article, namely, the bottle label, contained statements which represented and suggested that the article was of significant value for special dietary use by reason of the presence of 20 auxiliary and supporting factors to utilize better the vitamins and minerals of the article, such factors supplying less known.